

**Docket Number:** T13-0086  
**Bench Date:** 06/24/15  
**Deadline:** N/A

**MEMORANDUM**

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**TO:** The Commission

**FROM:** Michael E. Stead, Railroad Safety Program Administrator

**DATE:** May 20, 2015

**SUBJECT:** Norfolk Southern Railway Company, Harvel Township Road District, and the State of Illinois, Department of Transportation.

Stipulated Agreement regarding improving public safety at the N. 24<sup>th</sup> Avenue highway-rail grade crossing of the Norfolk Southern Railway Company's track near Harvel, Montgomery County, Illinois, designated as crossing AAR/DOT #480031W, railroad milepost D-422.78.

**RECOMMENDATION:** Enter Supplemental Order granting additional GCPF assistance.

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On September 18, 2013, the Commission entered its original Order in the above captioned matter. Harvel Township Road District (Township) and the Norfolk Southern Railway Company (NS) were required to make safety improvements at the N. 24<sup>th</sup> Avenue grade crossing of the NS's tracks near Harvel, Montgomery County, Illinois. All of the required work was to be completed on or September 18, 2014.

On July 25, 2014, NS reported that the required automatic warning devices were placed in service on July 22, 2014. On September 3, 2014, the Township reported that the required highway approach improvements were complete and renewed signage would be installed immediately upon delivery from the vendor. Staff of the Commission's Rail Safety Section (Staff) confirmed the installation of the renewed signage by inspection on or about November 6, 2014.

On March 2, 2015, NS filed a Petition for a Supplemental Order (Petition) requesting additional Grade Crossing Protection Fund (GCPF) assistance for 95% of the signal installation costs in excess of the \$310,885 estimated cost used in Stipulated Agreement 1718, which was approved by Commission Order in this docket. NS filed an Amended Petition on May 19, 2015, which wholly replaced and superseded the Petition filed on March 2, 2015. The Amended Petition was necessitated by NS's preparation and submission of a Revised Final Bill, dated April 29, 2015, a copy of which was filed as Exhibit #2 of the Amended Petition. The total final cost of NS's required signal installation work was \$423,178.69, which exceeded the initial estimate by \$112,293.69. NS requested that 95% of that amount, or \$106,679.01, be approved for reimbursement from the GCPF, as allowed by the terms of SA 1718. In addition, NS also requested that the final \$1,944 from the original GCPF obligation be released for a combined total final payment from the GCPF in the amount of \$108,623.01.

The Amended Petition stated that SA 1718 used a preliminary “round figure” cost estimate of \$310,885, which NS provided without the benefit of fully engineered signal plans. Once engineering was completed, NS submitted a “detailed estimate” of \$400,017 to Staff, on or about December 18, 2013, along with fully engineered signal plans, which were later approved by Commission X-Resolution. The Amended Petition stated that the \$423,178.69 total cost NS expended in completing its required work amounted to an actual “overrun” of \$23,161.69 above the approved “detailed estimate” of \$400,017. This overrun was attributed to an industry-wide shortage of trained and skilled work crews, which required a larger than anticipated crew to be utilized for the project, having less experienced workers under closer supervision.

Staff has reviewed NS’s documentation, and believes it is fair and reasonable that additional GCPF assistance should be approved. While SA 1718 contained an initial GCPF “not to exceed” (NTE) limit of \$295,341 for the NS’s required work, Section 5, Note 1 of SA 1718 also states *“any installation costs above the total estimated amount of \$310,885 will be divided in the same percentages noted above, upon submittal and review of evidence to support the additional cost and subject to approval by the Commission.”*

To save time, Staff frequently requests railroads to provide “round figure” crossing signal installation cost estimates to establish NTE limits in Stipulated Agreements. This allows Stipulated Agreements to be issued approximately 90 days sooner than if fully engineered “detailed estimates” are used. It also provides railroads the benefit of recovering engineering costs on a progressive billing basis as they are being incurred. Staff understands that engineering can subsequently reveal the need for additional costs arising from unanticipated conditions. In this instance, the presence of multiple track switches and train signal control points within the crossing approach circuits required a more complicated and costly warning device design than anticipated. While it became apparent that NS’s “round figure” estimate would not be sufficient, Staff recommended that, for most efficient handling, NS wait until the final project costs were known to request a single final payment.

With regard to the \$23,161.69 in charges exceeding the “detailed estimate” on account of larger crew sizing, Staff believes these charges were reasonable and necessary, but not entirely unforeseeable in light of NS’s explanation of an ongoing industry-wide shortage of more experienced and smaller crews. On future projects, Staff recommends that NS prepare its estimates under the assumption that it will be necessary to utilize a larger and less experienced crew. Staff recommends that additional GCPF assistance should be approved to pay 95% of NS’s \$112,293.69 total cost in excess of the preliminary “round figure” estimate, in an amount not to exceed \$106,679.01. Staff further recommends that the remaining \$1,944 from the original GCPF obligation be paid to NS resulting in a combined total final payment not to exceed \$108,623.01. Staff recommends that this amount should be final and no further GCPF assistance should be allowed in this docket.

I recommend entry of the attached Supplemental Order.

Attachment  
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